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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/657,368 | 09/07/2000 | Yasuyuki Nakajima | 001162 | 2481 |

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

EXAMINER

DONAGHUE, LARRY D

ART UNIT PAPER NUMBER

2154

DATE MAILED: 03/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/657,368

Applicant(s)

NAKAJIMA ET AL.

Examiner

Larry D Donaghue

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 4-13 and 16-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20041008.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Claims 1-33 are presented for examination.
2. Claims 4-13 and 16-33 have been withdrawn from further consideration.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Yano et al.

(6,701,372).

Yano et al. taught the invention as claimed including input means for receiving said picture information (101); an encoder encoding said picture information from the input means on a preset cycle in a real time manner; storage means for writing and storing real-time-encoded frame data on said picture information from the encoder for each frame (col. 3, line 57 – col. 4, line 3 and col. 13, lines 38-48);, division means for sequentially dividing said real-time-encoded frame data stored in the storage means into packets for each frame (col. 3, line 57 – col. 4, line 3 and col. 13, lines 38-48);, and transmission timing control and transmission means for controlling transmission timing to sequentially transmit the divided packets to a network after a write time for storing said frame data for the packets and before a time for storing next frame data (col. 3, line 57 – col. 4, line 3 and col. 13, lines 38-48), and for transmitting the packets to the network according to a connection-less type protocol (col. 2, line 66 – col. 2, line 7).

Claim 14 is rejected as the analogues method.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yano et al. (6,701,372) as applied to claims 1 and 14 above, and further in view of Boyce (6,490,705).

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7. As to claim 2, Yano et al. taught the transmission timing for transmitting the divided packets to the network is determined from an encoded frame interval and a frame data storage time (Yano et al. col. 13, line lines 38-45).

Yano et al. did not expressly suggest using the division means for dividing each frame data into the packets, divides each of said encoded frame data into the packets in size suited for an Ethernet maximum transfer unit.

Boyce expressly suggested for IP transmission using Ethernet MTU as size of the packet (col. 8, lines 65-66).). It would have been obvious to modify the teaching of Yano et al. with that of Boyce to gain maximum through put.

8. As to claim 3, , Yano et al. taught for transmitting the packets to the network is set so that a transmission time, in seconds, for transmitting the K-th frame data to the network corresponds to a value obtained by subtracting a write time, in seconds, for which said encoder writes the K-th frame data into said storage means, from a frame interval, in seconds, between the K-th frame data and a (K + 1)th frame data (Yano et al. col. 13, line lines 38-45).

Boyce expressly suggested for IP transmission using Ethernet MTU as size of the packet (col. 8, lines 65-66) and division means for dividing each frame data into the packets is constituted so that: a payload size of a transmitted UDP packet corresponds to a value obtained by subtracting an IP header size and a UDP header size from an Ethernet maximum transfer unit; and the number of UDP packets divided from a K-th frame corresponds to a value obtained by dividing a data size in bytes, of the K-th frame by the payload size, in bytes (col. 8, lines 65-66 and col. 9, line 35-39). It would have been obvious to modify the teaching of Yano et al. with that of Boyce to gain maximum through put.

9. Applicant's arguments filed 10/19/2004 have been fully considered but they are not persuasive.

10. Applicant argued in substance Yano et al. is completely silent with respect to the relationship between an encoder writing to storage and network transmission timing to a network.

This is expressly taught in the cited passage and for further evidence see col. 13, lines 38-67, and col. 12, lines 26-44.

11. Yano et al. does not disclose or suggest controlling transmission timing of packets to a network based on the write timing of a encoder.

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This is expressly taught in the cited passage and for further evidence see col. 13, lines 38-67, and col. 12, lines 26-44.

12. Page 23-24 of the response on 10/19/2004, applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Larry D Donaghue whose telephone number is 571-272-3962. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read "Larry D. Donaghue", is written over a rectangular stamp. The signature is fluid and extends to the right. The stamp contains the text "LARRY D. DONAGHUE" on the top line and "PRIMARY EXAMINER" on the bottom line.

LARRY D. DONAGHUE
PRIMARY EXAMINER